

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GEICO INDEMNITY COMPANY,
 Plaintiff,

v.

STEVEN GOLDSTEIN, *et al.*,
 Defendants.

Lead Case: 2:15-cv-00340–APG–PAL

**ORDER DENYING DEFENDANT’S
 MOTION TO DISMISS AND DENYING
 GEICO’S MOTION FOR SUMMARY
 JUDGMENT WITHOUT PREJUDICE**

GEICO INDEMNITY COMPANY,
 Plaintiff,

vs.

CAROLYN MANN, *et al.*,
 Defendants.

(Dkt. #15, #17)

Member Case: 2:15-cv-00485–APG–PAL

Thomas Meyers and David Mann died in a car accident, which resulted in two lawsuits that are now consolidated here. The first lawsuit (Case No. 2:15-cv-00340) is a declaratory relief action brought by GEICO against Steven Goldstein, the administrator of Meyer’s estate. Goldstein moved to dismiss GEICO’s complaint, arguing that GEICO’s claim sounds in tort and is not the proper subject of a declaratory relief action. (Dkt. #15.) Shortly thereafter, GEICO moved for summary judgment on its declaratory relief claim. (Dkt. #17.) The second lawsuit (Case No. 2:15-cv-00485) asserts breach-of-contract and tort claims by Mann’s wife against GEICO. Mann’s lawsuit was consolidated with GEICO’s declaratory relief action after the two pending motions were filed.

Because Mann’s claims have been consolidated with GEICO’s declaratory relief action, I deny Goldstein’s motion to dismiss as moot. And because GEICO moved for summary judgment before the two actions were consolidated, Mann did not have an opportunity to file an opposition

1 to GEICO's motion. Given the intertwined nature of the two lawsuits and the relief sought,
2 fairness dictates that Mann be allowed a chance to oppose GEICO's motion. Thus, I deny
3 GEICO's motion for summary judgment without prejudice.

4 IT IS THEREFORE ORDERED that Steven Goldstein's motion to dismiss (**Dkt. #15**) is
5 **DENIED as moot.**

6 IT IS FURTHER ORDERED that GEICO's motion for summary judgment (**Dkt. #17**) is
7 **DENIED without prejudice.** GEICO may refile the motion, or file an updated version, if it
8 chooses.

9 DATED this 31st day of March, 2016.

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11 ANDREW P. GORDON
12 UNITED STATES DISTRICT JUDGE
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